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IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

BRYAN TEAGUE, individually and
on behalf of all others similarly
situated,

Plaintiff,

v.

LYFT, INC., a Delaware corporation,

Defendant.

Case No.: **'16CV1768 BTM MDD**

CLASS ACTION

CLASS ACTION COMPLAINT FOR:

- (1) **Violations of 47 U.S.C. § 227;**
and
(2) **Violations of Cal. Bus. &**
Prof. Code §§ 17200, et seq.

DEMAND FOR JURY TRIAL

Plaintiff Bryan Teague brings this Class Action Complaint and Demand for Jury Trial against Defendant Lyft, Inc. to stop its practice of sending unsolicited and unwanted text message advertisements to the cellular telephones of consumers nationwide and to obtain redress for all persons injured by its conduct. Plaintiff alleges as follows upon personal knowledge as to himself and his own acts and

CLASS ACTION COMPLAINT

1 experiences, and, as to all other matters, upon information and belief, including
2 investigation by his attorneys.

3 **NATURE OF THE ACTION**

4 1. Lyft operates one of the largest transportation services in the United
5 States that facilitates ‘peer-to-peer ridesharing’ by connecting passengers with
6 drivers.

7 2. In an attempt to recruit drivers for its ridesharing service and otherwise
8 promote its mobile application, Lyft made (or directed to be made on its behalf)
9 unsolicited text message calls to the cellular telephone numbers of consumers
10 throughout the country. Lyft did not obtain prior express consent from such
11 consumers to make the text message calls and, therefore, violated the Telephone
12 Consumer Protection Act, 47 U.S.C. § 227 (“TCPA”) and California’s Unfair
13 Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (“UCL”).

14 3. The TCPA was enacted to protect consumers from unsolicited and
15 unwanted calls, exactly like those alleged in this case. Lyft made these text message
16 calls despite the fact that neither Plaintiff nor the other members of a putative Class
17 of consumers (defined below) provided Lyft their prior express consent to receive
18 such text messages. Similarly, the UCL was enacted to protect California consumers
19 from unfair and unlawful methods of competition, such as unsolicited and unlawful
20 text messages made in violation of the TCPA.

21 4. By making the text message calls at issue, Lyft has violated the privacy
22 and statutory rights of Plaintiff and the Class and caused them to suffer actual harm,
23 not only by subjecting them to the aggravation, nuisance, and invasion of privacy
24 that necessarily accompanies the receipt of unsolicited text messages, but also
25 because consumers frequently have to pay their wireless providers for the receipt of
26 such unauthorized text messages.

27 5. In response to Lyft’s unlawful conduct, Plaintiff brings the instant
28 lawsuit and seeks an injunction requiring Lyft to cease all unsolicited text messaging

1 activities, as well as an award of actual and statutory damages to the members of the
2 Class, together with costs and reasonable attorneys' fees.

3
4 **PARTIES**

5 6. Plaintiff Bryan Teague is a natural person and citizen of the State of
6 California, and resides in this District.

7 7. Defendant Lyft, Inc. is a corporation existing under the laws of the
8 State of Delaware, with its headquarters located at 568 Brannan Street, San
9 Francisco, California 94107. Lyft conducts business throughout this District, the
10 State of California, and the United States.

11 **JURISDICTION AND VENUE**

12 8. This Court has subject matter jurisdiction over this action pursuant to
13 28 U.S.C. § 1331, as this case arises under the TCPA, which is a federal statute.
14 This Court has supplemental jurisdiction over Plaintiff's state law claims under 28
15 U.S.C. § 1367(a) because those claims are so related to his federal claims that they
16 form part of the same case or controversy under Article III of the United States
17 Constitution.

18 9. This Court has personal jurisdiction over Defendant because it conducts
19 significant business transactions within this District, solicits consumers in this
20 District, and because Defendant made and continues to make unsolicited text
21 message calls to consumers located in this District.

22 10. Venue is proper in this District under 28 U.S.C. § 1391(b) because
23 Defendant conducts significant business transactions in this District, solicits
24 consumers in this District, and because Defendant makes unsolicited text message
25 calls to consumers located in this District. Venue is additionally proper because
26 Plaintiff Teague resides in this District.

27 **COMMON FACTUAL ALLEGATIONS**
28

1 11. Given the relatively low cost associated with sending bulk text
2 messages, many companies have turned to disseminating advertisements or
3 promotions through mass text message campaigns.

4 12. Seeking to recruit drivers and otherwise market its ridesharing service,
5 Lyft decided to engage in this especially invasive form of advertising.

6 13. For instance, on or around March 23, 2016, Lyft sent (or caused to be
7 sent) an unsolicited and unwanted generic text message advertisement to Plaintiff
8 Teague's cellular telephone encouraging him to become a Lyft driver (the
9 "Promotional Text Message"). The Promotional Text Message originated from a
10 phone number—619.214.0934—that Plaintiff did not recognize or know. The body
11 of the text message read:

12 Earn \$\$ working YOUR own hours.
13 Just want the quick \$750 bonus?
14 Sign now to drive Lyft! Let's both
15 get a bonus! Reply YES & start 2day.
16 Reply stop 2b removed.

17 14. Each Lyft Promotional Text Message received by Plaintiff and the
18 other putative Class members were virtually the same inasmuch as they all
19 contained solicitations encouraging the recipients of the messages to sign up for
20 Lyft, become drivers, and receive bonuses (paid by Lyft) for doing so.

21 15. Lyft created the promotional text message campaign at issue and
22 maintained exclusive control over the manner and means by which such text
23 messages were sent.

24 16. Plaintiff and members of the putative Class did not consent to, request,
25 or otherwise desire or permit Lyft to transmit the Promotional Text Messages to
26 their cellular telephones.

27 17. Lyft did not obtain consent from Plaintiff or the putative Class to make
28 promotional text message calls to their cellular telephones.

1 18. The Lyft Promotional Text Messages alleged herein were not initiated
2 by any other consumer and were solely made by Lyft.

3 19. Lyft made, or had made on its behalf, the same (or substantially the
4 same) text message calls *en masse* to thousands of cellular telephone numbers.

5 20. On information and belief, Lyft made these text message calls to
6 Plaintiff and putative Class members using equipment that had the capacity to store
7 or produce telephone numbers to be called using a random or sequential number
8 generator, and to dial such numbers.

9 **CLASS ALLEGATIONS**

10 21. **Class Definitions:** Plaintiff Teague brings this action pursuant to
11 Federal Rules of Civil Procedure 23(b)(2) and 23(b)(3) on behalf of himself and a
12 class and subclass, defined as follows:

13 **Class:** All persons in the United States who received one or more of the Lyft
14 Promotional Text Messages on their cellular telephones from (or on behalf of)
15 Defendant Lyft, Inc.

16 **California Subclass:** All members of the Class who reside in the
17 State of California.

18 The following are excluded from the Class and California Subclass
19 (collectively the "Class," unless otherwise indicated): (1) any Judge or Magistrate
20 presiding over this action and members of their families; (2) Defendant, Defendant's
21 subsidiaries, parents, successors, predecessors, and any entity in which the
22 Defendant or its parents have a controlling interest and its current or former
23 employees, officers and directors; (3) persons who properly execute and file a
24 timely request for exclusion from the Class; (4) persons whose claims in this matter
25 have been finally adjudicated on the merits or otherwise released; (5) Plaintiff's
26 counsel and Defendant's counsel; and (6) the legal representatives, successors, and
27 assigns of any such excluded persons.
28

22. **Numerosity:** The exact numbers of Class members are unknown at this

time, but it is clear that individual joinder is impracticable. Defendant sent the Promotional Text Messages to thousands of consumers who fall into the definitions of the Class and California Subclass. Class members can be identified through Defendant's records.

23. **Commonality and Predominance:** There are many questions of law and fact common to the claims of Plaintiff and the Class, and those questions predominate over any questions that may affect individual members of the Class. Common questions for the Class include, but are not necessarily limited to the following:

The Class:

- (a) Whether Defendant's conduct violated the TCPA;
- (b) Whether Defendant sent (or had sent on its behalf) the Promotional Text Messages using an automatic telephone dialing system ("ATDS"), as contemplated by the TCPA;
- (c) Whether Defendant systematically sent (or had sent on its behalf) the Promotional Text Messages to persons who did not previously provide it with prior express consent to receive such messages; and
- (d) Whether members of the Class are entitled to treble damages based on the willfulness of Defendant's conduct.

The California Subclass:

- (a) Whether Defendant systematically sent (or had sent on its behalf) the Promotional Text Messages to persons who did not previously provide it with prior express consent to receive such messages;
- (b) Whether Defendant's conduct constitutes unfair and/or unlawful business practices under the UCL; and
- (c) Whether Plaintiff and the members of the California Subclass are

1 entitled to injunctive relief, restitution, and attorneys' fees and
2 costs.

3 24. **Typicality:** Plaintiff's claims are typical of the claims of other
4 members of the Class, in that Plaintiff and the Class members sustained damages
5 arising out of Defendant's uniform wrongful conduct and unsolicited text messaging
6 calls.

7 25. **Adequate Representation:** Plaintiff will fairly and adequately
8 represent and protect the interests of the Class and has retained counsel competent
9 and experienced in complex class actions. Plaintiff has no interests antagonistic to
10 those of the Class and California Subclass, and Defendant has no defenses unique to
11 Plaintiff.

12 26. **Policies Generally Applicable to the Class:** This class action is
13 appropriate for certification because Defendant has acted or refused to act on
14 grounds generally applicable to the Class as a whole, thereby requiring the Court's
15 imposition of uniform relief to ensure compatible standards of conduct toward the
16 Class members and making final injunctive relief appropriate with respect to the
17 Class as a whole. Defendant's practices challenged herein apply to and affect each
18 of the Class members uniformly. Plaintiff's challenge of those practices hinges on
19 Defendant's conduct with respect to the Class as a whole, not on facts or law
20 applicable only to Plaintiff.

21 27. **Superiority:** This case is also appropriate for class certification
22 because class proceedings are superior to all other available methods for the fair and
23 efficient adjudication of this controversy and because joinder of all parties is
24 impracticable. The damages suffered by the individual members of the Class are
25 relatively small, especially given the burden and expense of individual prosecution
26 of the complex litigation necessitated by Defendant's actions. Thus, it would be
27 virtually impossible for the individual members of the Class to obtain effective relief
28 from Defendant's misconduct. Even if members of the Class could sustain such

individual litigation, it would still not be preferable to a class action, because individual litigation would increase the delay and expense to all parties due to the complex legal and factual controversies presented in this Complaint. By contrast, a class action presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single Court. Economies of time, effort and expense will be fostered and uniformity of decisions ensured.

FIRST CAUSE OF ACTION
Violation of 47 U.S.C. § 227
(On behalf of Plaintiff and the Class)

28. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

29. In an effort to promote its service, Defendant sent unsolicited and unwanted text messages (*i.e.*, the Promotional Text Messages) to Plaintiff's and the Class's cellular telephone numbers without their prior express consent.

30. Defendant sent the Promotional Text Messages to Plaintiff's and the Class's cellular telephones using equipment that had the capacity to store or produce telephone numbers to be called using a random or sequential number generator, and/or receive and store lists of phone numbers, and to dial such numbers *en masse*.

31. Defendant utilized equipment that sent the Promotional Text Messages to Plaintiff and other members of the putative Class simultaneously and without human intervention.

32. By sending the Promotional Text Messages to Plaintiff's and members of the Class's cellular telephone numbers without prior express consent, and by utilizing an ATDS, Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii).

33. As a result of Defendant's unlawful conduct, Plaintiff and the members of the Class suffered actual damages and have also had their rights to privacy adversely impacted. Plaintiff and the Class are therefore entitled to, among other things, a minimum of \$500 in statutory damages for each such violation of the

1 TCPA under 47 U.S.C. § 227(b)(3)(B).

2 34. Because Defendant's misconduct was willful and knowing, the Court
3 should, pursuant to 47 U.S.C. § 227(b)(3), treble the amount of statutory damages
4 recoverable by Plaintiff and the other members of the putative Class.

5 35. Additionally, as a result of Defendant's unlawful conduct, Plaintiff and
6 the other members of the Class are entitled to an injunction under 47 U.S.C. §
7 227(b)(3)(A) to ensure that Defendant's violations of the TCPA do not continue into
8 the future.

9
10 **SECOND CAUSE OF ACTION**

11 **Violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.***
12 **(On Behalf of Plaintiff and the California Subclass)**

13 36. Plaintiff incorporates the foregoing allegations as if fully set forth
14 herein.

15 37. California's UCL protects both consumers and competitors by
16 promoting fair competition in commercial markets for goods and services.

17 38. To that end, the UCL prohibits any unlawful, unfair, or fraudulent
18 business acts or practices. A business practice need only meet one of these three
19 criteria to be considered unfair competition.

20 39. An unlawful business practice is one that violates a federal, state, or
21 local law.

22 40. Defendant engaged in unfair and unlawful business practices, as
23 defined by the UCL, by sending (or having sent on its behalf) unsolicited and
24 unwanted Promotional Text Messages to Plaintiff's and the California Subclass's
25 cellular telephone numbers using an ATDS and without their prior express consent.

26 41. As described above, Defendant's text messaging practices are unfair
27 business practices because they are contrary to public policy, are oppressive, and
28 cause substantial injury to the call recipients. Defendant's unwanted and unsolicited
text message practices are contrary to public policy because they are unlawful under
the TCPA and because they gave Defendant an unfair competitive advantage over

1 business that advertise lawfully (*i.e.*, those who only call or send text message
2 promotions with consent and as authorized).

3 42. Defendant knew it was sending (or having sent on its behalf) the
4 Promotional Text Messages to Plaintiff and the California Subclass using an ATDS,
5 even though they did not provide it with prior express consent to receive such
6 messages.

7 43. Defendant's violations of the UCL caused substantial injury to
8 consumers, including Plaintiff and the California Subclass, by knowingly causing
9 their cellular telephone equipment to be accessed without consent, resulting in:

- 10 • The diminished value and utility of their telephone equipment and
11 telephone subscription services (*i.e.*, the value of such equipment and
12 services is higher when unencumbered by unwanted text messages, so
13 Defendant's conduct caused Plaintiff and the California Subclass
14 members to overpay and/or to receive less value than what they paid
15 for);
- 16 • Additional wear and tear to their telephone equipment, above and
17 beyond what would have occurred absent Defendant's conduct;
- 18 • The loss of battery charge (as each battery, when reacting to
19 Defendant's unwanted text messages, must expend and discharge
20 energy in excess of what would otherwise be discharged);
- 21 • The reduction in battery longevity (because each charge and discharge
22 cycle causes chemical changes in the active battery material,
23 diminishing each battery's storage capacity, requiring every more
24 frequent recharging, and reducing the ultimate duration of each
25 battery's useful life); and
- 26 • The per-kilowatt electricity costs required to recharge the additional
27 battery energy spent as a result of Defendant's unwanted text messages.

28 44. Each of these harms was felt by Plaintiff and the California Subclass
members while residing in California.

45. The injuries caused by Defendant's unfair conduct are not outweighed

1 by any countervailing benefits to consumers or competition, and the injuries are
2 such that consumers themselves could not have reasonably avoided them.

3 46. Defendant has also violated the UCL's unlawful prong by violating the
4 TCPA, as described above.

5 47. Defendant's unlawful and unfair conduct occurred in the course of
6 Defendant's business practices as described above.

7 48. Pursuant to Cal. Bus. & Prof. Code §§ 17203 and/or 17204, Plaintiff
8 Teague seeks an order: (1) requiring Defendant to cease the unfair and unlawful
9 practices described herein; (2) requiring Defendant to restore to Plaintiff and each
10 California Subclass member any money acquired by means of unfair and/or
11 unlawful competition (restitution); and, (3) awarding reasonable costs and attorneys'
12 fees pursuant to Cal. Code Civ. Proc. § 1021.5.

13 **PRAYER FOR RELIEF**

14 **WHEREFORE**, Plaintiff Bryan Teague, individually and on behalf of the
15 Class and California Subclass, prays for the following relief:

16 A. An order certifying the Class and California Subclass as defined above,
17 appointing Plaintiff Bryan Teague as the representative of the Class and California
18 Subclass, and appointing his counsel as Class Counsel;

19 B. An award of actual and statutory damages;

20 C. A declaratory judgment that Defendant's telephone calling equipment
21 constitutes an ATDS;

22 D. A declaratory judgment that Defendant's text messaging practices
23 violate the TCPA and the UCL;

24 E. An injunction requiring Defendant to cease all unsolicited and unlawful
25 text message activities and enjoining Defendant from using automated or
26 computerized telephone calling equipment to place text message calls without
27 consent;

1 F. An order requiring Defendant to pay restitution for the money and
2 property lost as a result of its unlawful text message activities;

3 G. An order requiring Defendant to disclose the names of any third-party
4 companies involved in the generation of the text messages alleged herein, along
5 with the terms of any contracts it has with such entities;

6 H. An order requiring Defendant to permanently cease-and-desist from all
7 unlawful conduct as alleged herein, and otherwise protecting the interests of the
8 Class and California Subclass;

9 I. An award of reasonable attorneys' fees and costs; and

10 J. Such other and further relief that the Court deems reasonable and just.

11 **JURY DEMAND**

12 Plaintiff requests a trial by jury of all claims that can be so tried.

13
14 Respectfully submitted,

15 **BRYAN TEAGUE**, individually and on
16 behalf of all others similarly situated,

17 Dated: July 7, 16

By: /s/ Douglas J. Campion

18 One of Plaintiff's Attorneys

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Counsel for Plaintiff and the Putative Class

**Pro hac vice* admission to be sought.

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